

Executive Summary – Enforcement Matter – Case No. 47346

City of Colorado City

RN102335726

Docket No. 2013-1457-MSW-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MSW

Small Business:

No

Location(s) Where Violation(s) Occurred:

Colorado City Municipal Landfill 420, 222 East County Road 141, Colorado City,
Mitchell County

Type of Operation:

Type 1 Arid Exempt Landfill

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 5, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$20,250

Amount Deferred for Expedited Settlement: \$4,050

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$16,200

Name of SEP: Texas Association of Resource Conservation and Development
Areas, Inc.

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 47346

City of Colorado City

RN102335726

Docket No. 2013-1457-MSW-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 17, 2013

Date(s) of NOE(s): July 23, 2013

Violation Information

1. Failed to conduct quarterly monitoring to ensure that the concentration of methane gas did not exceed 5% by volume at the Facility's boundary. Specifically, methane gas monitoring was not conducted for the third quarter of 2012 and the first quarter of 2013 and the fourth quarter readings for 2012 were invalid due to faulty monitoring equipment [30 TEX. ADMIN. CODE § 330.371 and MSW Permit No. 420A, Part IV Site Operating Plan ("SOP") for Arid Exempt Landfills].
2. Failed to prevent the unauthorized disposal of waste. Specifically, five cubic yards of oil field waste, containing drilling rig pit liners with adhered waste, were disposed of at the Facility [30 TEX. ADMIN. CODE § 330.171(b) and MSW Permit No. 420A, Part IV SOP for Arid Exempt Landfills].
3. Failed to provide adequate intermediate cover. Specifically, the intermediate cover on the southwest portion of the landfill was contaminated with large boulders and did not contain the proper amount of suitable earthen material [30 TEX. ADMIN. CODE § 330.165(c) and MSW Permit No. 420A, Part IV SOP for Arid Exempt Landfills].
4. Failed to have at least one individual licensed to supervise or manage a MSW facility. Specifically, the Facility's supervisor did not have a valid Class A MSW landfill operator license [30 TEX. ADMIN. CODE § 30.213 and MSW Permit No. 420A].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. Purchased gas monitoring equipment and began conducting proper monitoring of methane gas releases at the Facility's boundary on April 19, 2013;
- b. One individual at the Facility obtained the proper MSW operator license on August 14, 2013; and
- c. Ceased disposing of additional unauthorized waste and enrolled all employees at the Facility in a Waste Screening Certification Class on August 22, 2013.

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RN102335726
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Technical Requirements:

1. The Order will require the Respondent to implement and complete an SEP. (See SEP Attachment A)
2. The Order will also require the Respondent to:
 - a. Within 30 days, remove the large boulders and maintain adequate intermediate cover over the southwest portion of the landfill; and
 - b. Within 45 days, submit written certification to demonstrate compliance with a.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Danielle Porras, Enforcement Division, Enforcement Team 7, MC R-12, (713) 767-3682; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483
TCEQ SEP Coordinator: N/A
Respondent: David Hoover, City Manager, City of Colorado City, P.O Box 912, Colorado City, Texas 79512
The Honorable Jim Baum, Mayor, City of Colorado City, P.O Box 912, Colorado City, Texas 79512
Respondent's Attorney: N/A

Attachment A
Docket Number: 2013-1457-MSW-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Colorado City
Penalty Amount:	Sixteen Thousand Two Hundred Dollars (\$16,200)
SEP Offset Amount:	Sixteen Thousand Two Hundred Dollars (\$16,200)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc.
Project Name:	<i>Wastewater Treatment Assistance</i>
Location of SEP:	Mitchell County - Colorado River Basin, Edwards-Trinity Plateau Aquifer

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Wastewater Treatment Assistance* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities to repair or replace failing or inadequately designed on-site wastewater treatment systems such as septic systems for low-income households (the "Project"). Low-income households fall at or below the 80 percent median income level for households in the county where they live.

The Third-Party Administrator shall ensure that all repairs, replacements, and installations are performed in compliance with local, state, and federal rules relating to on-site wastewater treatment systems. The Third-Party Administrator shall ensure that only properly licensed contractors are utilized for repair of existing on-site wastewater treatment systems and installation of new on-site wastewater treatment systems.

City of Colorado City
Agreed Order - Attachment A

An on-site wastewater treatment system is a system of treatment devices or disposal facilities that (1) is used for the disposal of domestic sewage, excluding liquid waste resulting from the processes used in industrial and commercial establishments; (2) is located on the site where the sewage is produced; and (3) produces not more than 5,000 gallons of waste a day. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will provide a benefit to the environment by preventing the release of sewage into the environment and by protecting human health. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through sewage in drinking water sources, direct contact from water in lawns or streets, and inhalation and skin absorption.

Sewage overflows may cause damage to the environment. Sewage overflows may reach rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause algae blooms, and kill fish and other organisms in aquatic habitats.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent

City of Colorado City
Agreed Order - Attachment A

shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D Areas, Inc.
Ken Awtrey, Executive Director
P.O. Box 635067
Nacogdoches, Texas 75963-5067

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount, as described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the Project, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned PCW	29-Jul-2013	Screening	5-Aug-2013	EPA Due	
		7-Oct-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Colorado City		
Reg. Ent. Ref. No.	RN102335726		
Facility/Site Region	3-Abilene	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	47346	No. of Violations	4
Docket No.	2013-1457-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Danielle Porras
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$21,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$1,062
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Notes: Enhancement due to one NOV with same/similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$2,062
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$1,553		
Approx. Cost of Compliance	\$7,996		

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$20,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$20,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$20,250
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DEFERRAL	20.0% Reduction	Adjustment	-\$4,050
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$16,200
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Screening Date 5-Aug-2013

Docket No. 2013-1457-MSW-E

PCW

Respondent City of Colorado City

Policy Revision 3 (September 2011)

Case ID No. 47346

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102335726

Media [Statute] Municipal Solid Waste

Enf. Coordinator Danielle Porras

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement due to one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 5-Aug-2013

Docket No. 2013-1457-MSW-E

PCW

Respondent City of Colorado City

Policy Revision 3 (September 2011)

Case ID No. 47346

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102335726

Media [Statute] Municipal Solid Waste

Enf. Coordinator Danielle Porras

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 330.371 and Municipal Solid Waste ("MSW") Permit No. 420A, Part IV Site Operating Plan ("SOP") for Arid Exempt Landfills

Violation Description

Failed to conduct quarterly monitoring to ensure that the concentration of methane gas did not exceed 5% by volume at the Facility's boundary. Specifically, methane gas monitoring was not conducted for the third quarter of 2012 and the first quarter of 2013 and the fourth quarter readings for 2012 were invalid due to faulty monitoring equipment.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

3 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$1,250

One annual event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$312

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent came into compliance on April 19, 2013, prior to the Notice of Enforcement ("NOE") dated July 23, 2013.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$536

Violation Final Penalty Total \$1,001

This violation Final Assessed Penalty (adjusted for limits) \$1,001

Economic Benefit Worksheet

Respondent City of Colorado City
Case ID No. 47346
Reg. Ent. Reference No. RN102335726
Media Municipal Solid Waste
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment	\$2,500	17-Apr-2013	19-Apr-2013	0.01	\$0	\$1	\$1
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$200	17-Apr-2013	19-Apr-2013	0.01	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to obtain proper operational and calibrated methane gas monitoring equipment and training to ensure that quarterly monitoring of methane gas is conducted at the Facility. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	30-Sep-2012	31-Mar-2013	1.42	\$35	\$500	\$535
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct quarterly methane gas monitoring. The Date Required is the last day of the third quarter of 2012. The Final Date is the last day of the first quarter of 2013.

Approx. Cost of Compliance

\$3,200

TOTAL

\$536

Screening Date 5-Aug-2013

Docket No. 2013-1457-MSW-E

PCW

Respondent City of Colorado City

Policy Revision 3 (September 2011)

Case ID No. 47346

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102335726

Media [Statute] Municipal Solid Waste

Enf. Coordinator Danielle Porras

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 330.171(b) and MSW Permit No. 420A, Part IV SOP for Arid Exempt Landfills

Violation Description

Failed to prevent the unauthorized disposal of waste. Specifically, five cubic yards of oil field waste, containing drilling rig pit liners with adhered waste, were disposed of at the Facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

110 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended from the April 17, 2013 investigation to the August 5, 2013 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$250

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent came into compliance on August 22, 2013, after the NOE dated July 23, 2013.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$2,375

This violation Final Assessed Penalty (adjusted for limits) \$2,375

Economic Benefit Worksheet

Respondent City of Colorado City
Case ID No. 47346
Reg. Ent. Reference No. RN102335726
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	17-Apr-2013	22-Aug-2013	0.35	\$17	n/a	\$17

Notes for DELAYED costs

Estimated cost to provide additional oversight and training to ensure that unauthorized wastes are not accepted for disposal. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$17

Screening Date 5-Aug-2013

Docket No. 2013-1457-MSW-E

PCW

Respondent City of Colorado City

Policy Revision 3 (September 2011)

Case ID No. 47346

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102335726

Media [Statute] Municipal Solid Waste

Enf. Coordinator Danielle Porras

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 330.165(c) and MSW Permit No. 420A, Part IV SOP for Arid Exempt Landfills

Violation Description

Failed to provide adequate intermediate cover. Specifically, the intermediate cover on the southwest portion of the landfill was contaminated with large boulders and did not contain the proper amount of suitable earthen material.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

110 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended from the April 17, 2013 investigation to the August 5, 2013 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$153

Violation Final Penalty Total \$2,625

This violation Final Assessed Penalty (adjusted for limits) \$2,625

Economic Benefit Worksheet

Respondent City of Colorado City
Case ID No. 47346
Reg. Ent. Reference No. RN102335726
Media Municipal Solid Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,000	17-Apr-2013	25-Apr-2014	1.02	\$153	n/a	\$153

Notes for DELAYED costs

Estimated cost to provide an adequate intermediate cover on the southwest portion of the landfill. The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

TOTAL

\$153

Screening Date 5-Aug-2013

Docket No. 2013-1457-MSW-E

PCW

Respondent City of Colorado City

Policy Revision 3 (September 2011)

Case ID No. 47346

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102335726

Media [Statute] Municipal Solid Waste

Enf. Coordinator Danielle Porras

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 30.213 and MSW Permit No. 420A

Violation Description

Failed to have at least one individual licensed to supervise or manage a MSW facility. Specifically, the Facility's supervisor did not have a valid Class A MSW landfill operator license.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 4

110

Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Four monthly events are recommended from the April 17, 2013 investigation to the August 5, 2013 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$1,500

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent came into compliance on August 14, 2013, after the NOE dated July 23, 2013.

Violation Subtotal \$13,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$846

Violation Final Penalty Total \$14,250

This violation Final Assessed Penalty (adjusted for limits) \$14,250

Economic Benefit Worksheet

Respondent City of Colorado City
Case ID No. 47346
Reg. Ent. Reference No. RN102335726
Media Municipal Solid Waste
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$796	17-Apr-2013	14-Aug-2013	1.24	\$50	\$796	\$846
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to obtain the required MSW operator license. The Date Required is the investigation date and the Final Date is the compliance date.

Approx. Cost of Compliance

\$796

TOTAL

\$846



Compliance History Report

PUBLISHED Compliance History Report for CN600738884, RN102335726, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN600738884, City of Colorado City	Classification: SATISFACTORY	Rating: 2.90
Regulated Entity:	RN102335726, Colorado City Municipal Landfill 420	Classification: SATISFACTORY	Rating: 0.44
Complexity Points:	8	Repeat Violator:	NO
CH Group:	11 - Waste Management (Excluding Landfills)		
Location:	222 E COUNTY ROAD 141 COLORADO CITY, TX 79512-3112, MITCHELL COUNTY		
TCEQ Region:	REGION 03 - ABILENE		
ID Number(s):			
MUNICIPAL SOLID WASTE DISPOSAL PERMIT 420A	TIRES REGISTRATION 11614		
USED OIL REGISTRATION C81237	STORMWATER PERMIT TXR05P873		
Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year: 2012	Rating 09/01/2012
Date Compliance History Report Prepared:	August 06, 2013		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	August 05, 2008 to August 05, 2013		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Danielle Porras	Phone	(713) 767-3682

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1 April 24, 2012 (995724)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 08/24/2012 (1019784) CN600738884

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter D 330.165(b)

Description: Failure to apply six-inches of well-compacted clean earthen material as cover no less than weekly.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF COLORADO CITY
RN102335726

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2013-1457-MSW-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Colorado City ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a Type 1 Arid Exempt Landfill at 222 East County Road 141 in Colorado City, Mitchell County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 28, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty Thousand Two Hundred Fifty Dollars (\$20,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Four Thousand Fifty Dollars (\$4,050) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this

Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Sixteen Thousand Two Hundred Dollars (\$16,200) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Purchased gas monitoring equipment and began conducting proper monitoring of methane gas releases at the Facility's boundary on April 19, 2013;
 - b. One individual at the Facility obtained the proper MSW operator license on August 14, 2013; and
 - c. Ceased disposing of additional unauthorized waste and enrolled all employees at the Facility in a Waste Screening Certification Class on August 22, 2013.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to conduct quarterly monitoring to ensure that the concentration of methane gas did not exceed 5% by volume at the Facility's boundary, in violation of 30 TEX. ADMIN. CODE § 330.371 and MSW Permit No. 420A, Part IV Site Operating Plan ("SOP") for Arid Exempt Landfills, as documented during an investigation conducted on April 17, 2013. Specifically, methane gas monitoring was not conducted for the third quarter of 2012 and the first quarter of 2013 and the fourth quarter readings for 2012 were invalid due to faulty monitoring equipment.

2. Failed to prevent the unauthorized disposal of waste, in violation of 30 TEX. ADMIN. CODE § 330.171(b) and MSW Permit No. 420A, Part IV SOP for Arid Exempt Landfills, as documented during an investigation conducted on April 17, 2013. Specifically, five cubic yards of oil field waste, containing drilling rig pit liners with adhered waste, were disposed of at the Facility.
3. Failed to provide adequate intermediate cover, in violation of 30 TEX. ADMIN. CODE § 330.165(c) and MSW Permit No. 420A, Part IV SOP for Arid Exempt Landfills, as documented during an investigation conducted on April 17, 2013. Specifically, the intermediate cover on the southwest portion of the landfill was contaminated with large boulders and did not contain the proper amount of suitable earthen material.
4. Failed to have at least one individual licensed to supervise or manage a MSW facility, in violation of 30 TEX. ADMIN. CODE § 30.213 and MSW Permit No. 420A, as documented during an investigation conducted on April 17, 2013. Specifically, the Facility's supervisor did not have a valid Class A MSW landfill operator license.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Colorado City, Docket No. 2013-1457-MSW-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 Jurisdiction and Stipulations section that describes the penalty and SEP above, Sixteen Thousand Two Hundred Dollars (\$16,200) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, remove the large boulders and maintain adequate intermediate cover over the southwest portion of the landfill, in accordance with 30 TEX. ADMIN. CODE § 330.165(c) and MSW Permit No. 420A, Part IV SOP for Arid Exempt Landfills; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Pamela Monique J.
For the Executive Director

5/24/16
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

David Hoover
Signature

3-16-16
Date

David Hoover
Name (Printed or typed)
Authorized Representative of
City of Colorado City

City Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2013-1457-MSW-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Colorado City
Penalty Amount:	Sixteen Thousand Two Hundred Dollars (\$16,200)
SEP Offset Amount:	Sixteen Thousand Two Hundred Dollars (\$16,200)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc.
Project Name:	<i>Wastewater Treatment Assistance</i>
Location of SEP:	Mitchell County - Colorado River Basin, Edwards-Trinity Plateau Aquifer

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)** for the *Wastewater Treatment Assistance* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities to repair or replace failing or inadequately designed on-site wastewater treatment systems such as septic systems for low-income households (the “Project”). Low-income households fall at or below the 80 percent median income level for households in the county where they live.

The Third-Party Administrator shall ensure that all repairs, replacements, and installations are performed in compliance with local, state, and federal rules relating to on-site wastewater treatment systems. The Third-Party Administrator shall ensure that only properly licensed contractors are utilized for repair of existing on-site wastewater treatment systems and installation of new on-site wastewater treatment systems.

An on-site wastewater treatment system is a system of treatment devices or disposal facilities that (1) is used for the disposal of domestic sewage, excluding liquid waste resulting from the processes used in industrial and commercial establishments; (2) is located on the site where the sewage is produced; and (3) produces not more than 5,000 gallons of waste a day. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will provide a benefit to the environment by preventing the release of sewage into the environment and by protecting human health. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through sewage in drinking water sources, direct contact from water in lawns or streets, and inhalation and skin absorption.

Sewage overflows may cause damage to the environment. Sewage overflows may reach rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause algae blooms, and kill fish and other organisms in aquatic habitats.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent

City of Colorado City
Agreed Order - Attachment A

shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D Areas, Inc.
Ken Awtrey, Executive Director
P.O. Box 635067
Nacogdoches, Texas 75963-5067

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount, as described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the Project, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.